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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,417	09/17/2004	Randy Scully	A92173	. 5416
30008 7590 04/10/2007 GUDRUN E. HUCKETT DRAUDT LONSSTR. 59 WUPPERTAL, 42289 GERMANY			EXAMINER PHAM, MINH CHAU THI	
			ART UNIT 1724	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

8

**Office Action Summary**

Application No.

10/711,417

Applicant(s)

SCULLY ET AL.

Examiner

Minh-Chau T. Pham

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3 and 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lida et al (2002/0174511 A1), in view of any one of Dufern et al (5,167,209), Reese (5,133,315) and Spicer et al (4,758,460).

Lida et al disclose a blower (100) comprising a carrying frame (2) provided with a base plate (3), a fan (10) comprising a fan housing mounted on the carrying frame (2), wherein the fan housing has an intake opening that faces the base plate and is spaced from the base plate and wherein the intake gap is formed between the base plate and the fan housing (see paragraph 0027), an internal combustion engine (9) driving the fan (10) in order to take in working air through the intake opening (13) and to blow out the working air through a blower tube (43), and a filter member (24) located in the intake gap (see paragraphs 0025-0032). Claims 1-3 and 5-11 differ from the disclosure of Lida et al in that the filter being a leaf shield made of foam material having a central air chamber adjoining the intake opening of the fan housing. Dufern et al disclose a filter for a gas driven engine when operated in dirty environments having a foam material as a filter (41) having a central air chamber adjoining the intake opening of the fan housing (24) (see 41 in Fig. 1, col. 2, lines 35-41). Reese discloses a filter for an air-cooled internal combustion engine used for lawn mowers, shredders or agricultural equipment, etc. (col. 3, lines 26-29) being a filter (54) made of foam material having a central air chamber adjoining the intake opening of the fan housing (see Fig. 9, col. 4, lines 22-33).

Spicer et al disclose an air filter for an internal combustion engine comprising a composite formed of first and second layers of reticulated foam plastics material (12, 13, 14, see Abstract) wherein the material of layer (11) has sufficiently large pores (i.e. is sufficiently coarse) (col. 4, lines 26-27) served to hold the particles trapped in the filter element (col. 50-52). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a coarse foam filter material as taught by any one of Dufern et al, Reese and Spicer et al in the blower of Lida et al since it is well known in the art that foam filter material having large pores effectively catch large particles while letting air flow through the blower.

***Response to Amendment***

Applicant's arguments filed on February 1, 2007 have been fully considered but they are not persuasive.

Applicant's main argument is that the secondary reference "Smick et al discloses a fine-pore foam filter which does not enable a satisfactory air volume while leaves and debris (large items, not minute particles that can be retained by pores of less than 1/5 millimeter diameter) can be retained by the coarse-pore foam material in a reliable way". The Examiner now drops the cited secondary reference Smick et al. The Examiner still maintains Lido et al as the primary reference under the 103(a) rejection of claims 1-3 and 5-11 to show: A blower (100) comprising a carrying frame (2) provided with a base plate (3), a fan (10) comprising a fan housing mounted on the carrying frame (2), wherein the fan housing has an intake opening that faces the base plate and is spaced from the base plate and wherein the intake gap is formed between the base plate and

Art Unit: 1724

the fan housing (see paragraph 0027), an internal combustion engine (9) driving the fan (10) in order to take in working air through the intake opening (13) and to blow out the working air through a blower tube (43), and a filter member (24) located in the intake gap (see paragraphs 0025-0032), as claimed.

The Examiner newly introduces any one of Dufern et al (5,167,209), Reese (5,133,315) and Spicer et al (4,758,460), as the secondary references to combine with the primary reference Lido et al under the 103(a) rejection to show: Dufern et al disclose a filter for a gas driven engine when operated in dirty environments having a foam material as a filter (41) having a central air chamber adjoining the intake opening of the fan housing (24) (see 41 in Fig. 1, col. 2, lines 35-41), as claimed. Reese discloses a filter for an air-cooled internal combustion engine used for lawn mowers, shredders or agricultural equipment, etc. (col. 3, lines 26-29) being a filter (54) made of foam material having a central air chamber adjoining the intake opening of the fan housing (see Fig. 9, col. 4, lines 22-33), as claimed. Spicer et al disclose an air filter for an internal combustion engine comprising a composite formed of first and second layers of reticulated foam plastics material (12, 13, 14, see Abstract) wherein the material of layer (11) has sufficiently large pores (i.e. is sufficiently coarse) (col. 4, lines 26-27) served to hold the particles trapped in the filter element (col. 50-52), as claimed.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a coarse foam filter material as taught by any one of Dufern et al, Reese and Spicer et al in the blower of Lida et al since it is well known in

Art Unit: 1724

the art that foam filter material having large pores effectively catch large particles while letting air flow through the blower.

Applicant's arguments with respect to claims 1-3 and 5-11 have been thoroughly considered but are moot in view of the new ground(s) of rejection, as discussed above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/711,417

Page 6

Art Unit: 1724



**Minh-Chau Pham**

**Patent Examiner**

**Art Unit : 1724**

**April 6, 2007**